

**STATE OF CONNECTICUT  
CONNECTICUT SITING COUNCIL**

.....	)	
WINDSOR SOLAR ONE, LLC PETITION	)	
FOR A DECLARATORY RULING,	)	PETITION NO. 1598
PURSUANT TO CONNECTICUT	)	
GENERAL STATUTES §4-176 AND §16-	)	
50K, FOR THE PROPOSED	)	
CONSTRUCTION, MAINTENANCE AND	)	
OPERATION OF A 3.0-MEGAWATT AC	)	May 9, 2024
SOLAR PHOTOVOLTAIC ELECTRIC	)	
GENERATING FACILITY LOCATED AT	)	
445 RIVER STREET WINDSOR,	)	
CONNECTICUT AND ASSOCIATED	)	
ELECTRICAL INTERCONNECTOIN	)	
.....	)	

**TOWN OF WINDSOR’S POSTHEARING BRIEF**

In accordance with § 16-50j-31 of the Regulations of Connecticut State Agencies, the Town of Windsor (“Town”) respectfully submits the following Post Hearing Brief in connection with a Petition for Declaratory Ruling that No Certificate of Environmental Compatibility and Public Need Is Required for a 3.0 Megawatt AC Solar Photovoltaic Electric Generating Facility in Windsor Connecticut (“Petition”) filed by Windsor Solar One, LLC (“WSO”) with the Connecticut Siting Council (“Council”).

Connecticut General Statutes (CGS) § 16-50p requires, as a part of the certification process, that the Council consider “the environmental impact of the facility alone *and cumulatively* (emphasis added) with other existing facilities, including a specification of every significant adverse effect, including but not limited to, (i) electromagnetic fields that, whether alone or cumulatively with other effects, impact on, and conflict with the policies of the state concerning the natural environment, (ii) ecological balance, (iii) public health and safety, (iv) scenic, historic and recreational values, (v) agriculture, (vi) forests and parks, (vii) air and water purity, and (viii)

fish, aquaculture and wildlife.<sup>1</sup>”

The Town’s primary concern is the safety and well-being of its residents. The Town took the position during the proceedings that additional changes to the proposed Facility were required to ensure that the Facility, if approved, address the concerns of abutters and affected neighborhoods. These issues include: (1) the relocation of solar panels from the northern section of the Project Site to the eastern portion alongside the Amazon distribution facility; (2) implementing appropriate screening for abutters; (3) requiring a post-construction noise study of the Project Site; (4) requiring environmental testing of the Project Site during decommissioning and (5) ensuring an enforceable decommissioning plan with the appropriate decommissioning bond.

The Town asks that the Council require WSO to take reasonable measures to ensure that this project is constructed in a way that does not diminish the appearance, history, culture, and value of the Windsor community.

## **I. PRELIMINARY STATEMENT**

The Town has spent decades developing land use controls to enhance and preserve the beautiful landscape and character of the Town. The results are immediately obvious to anyone visiting the Town or merely passing through. These land use controls are grounded in respect for the natural environment, celebrating and preserving the Town’s history and guiding the built environment so that any large scale commercial or industrial development does not harm and sacrifice the existing look and feel of the community. The Town is a place where raising a family, providing quality education, and access to the Town’s wonderful natural environment are of the highest priority. While commercial development is not discouraged, its placement, scale and

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<sup>1</sup> Connecticut General Statute 16-50p(3)(B)

context are strictly examined and controlled to assure that development is properly located on appropriate sites within the Town.

WSO's proposed Facility is a threat to these principles. The Council's process precludes the Town's land use boards from engaging in their customary in-depth scrutiny of this proposed development. Instead, the Town is a party to a state-mandated proceeding where the Council will supplant the careful, thoughtful review that the Town's own boards and commissions would normally engage in for an industrial type of project of this scale. We respectfully request that the Council implement the same level of careful review that the Town's land use boards would undertake in ruling on the Petition.

The detailed analysis that follows is intended to assist the Council in achieving the goal of scrutiny of WSO's proposed Facility, to protect the Town's inherent right to ensure that the industrial development of a 13.5-acre parcel of land in an agricultural zone does not come at the cost of the Town's neighborhoods and the health and safety of its residents.

## **II. THE FACILITY AND PROJECT SITE**

On November 9, 2023, WSO submitted a petition to the Council, pursuant to CGS § 16-50k and §4-176, for a declaratory ruling for the construction, maintenance, and operation of a 3.0-megawatt AC solar photovoltaic electric generating facility ("Facility") on a 13.5-acre site located at 445 River Street, Windsor, Connecticut ("Project Site"), and associated electrical interconnection ("Petition" or "Project"). (*WSO Petition Narrative, p. 1*). The proposed industrial development on the Project Site is in a classic New England rural landscape, with residential development; intermixed with historic homes, woods, and agricultural lands.

## **III. THE LACK OF APPROPRIATE SCREENING RESULTS IN THE**

**UNACCEPTABLE VISUAL IMPACT OF THE PROPOSED FACILITY ON RESIDENTIAL AREAS.**

A. WSO's Proposed Project is Not Compatible with the Surrounding Neighborhood.

The entire Project Site is zoned for agricultural uses and is surrounded by residential neighborhoods. Because the facility is not permitted under the Windsor zoning regulations, and the zoning classifications of the Project Site, the residential property owners could not have anticipated a large-scale solar project in their backyards.

B. WSO's Proposed Landscaping Plan.

Any petition approved by the Council should include appropriate screening to adequately address the visual impact of the proposed facility on residential areas. Based on its review of the Petition and evaluation of the community, the Town strongly recommends that the screening and landscaping along the River Street frontage be expanded as much as possible to adequately screen the Project Site. It is the Town's recommendation that the modification take the form of a combination of vegetated plantings and trees including but not limited Blue Spruce and Scotch Pine placed in a manner to effectively soften and screen the Facility from the nine hundred (900) feet of frontage on River Street. During the Day Three Evidentiary Hearing, WSO stated "the petitioner does not object to using Blue Spruce or Scotch Pine." (*Hearing Transcript 4/9/2024 p. 55*)

WSO has proposed planting a total of ninety-three (93) trees and one hundred thirteen (113) shrubs in a staggered formation. (*Revised Site Plan L-6.1 – Planting Plan*). When the evergreens are first planted, they will be approximately six (6) to eight (8) feet in height. (*Hearing Transcript 2/8/2024 p. 113*). Until these evergreens reach a larger maturity, they will not provide adequate screening and residents will be able to see through the gaps and see the fence surrounding the

Project Site. (*Hearing Transcript 2/8/2024 p. 113*). In addition to the newly planted trees, the Project requires Tree clearing along the eastern border of the Project Site. (*Hearing Transcript 2/8/2024 p. 16, 17, 69*). WSO is committed to tagging trees before they are removed on the Project Site prior to construction commencing. (*Hearing Transcript 3/19/24 pp. 133-134*).

C. The Proposed Project Utility Poles Are Not Compatible with the Surrounding Neighborhood with Visibility and Noise Concerns.

Additionally, the Project will require the installation of four utility poles for WSO's equipment and Eversource's equipment to support the operations of the Project. (*Hearing Transcript 2/8/2024 p. 27*). The four proposed utility poles would be approximately 40-45 feet above ground level. The poles cannot be reduced due to Eversource design standards. (*WSO's response to Town Interrogatory No. 9*). Given the size of these utility poles, they will remain visible during the duration of the Project. Abutters have raised concerns regarding the noise associated with constructed the Project. WSO does not intend to install noise dampening enclosure around the transformers and inverters. (*Hearing Transcript 3/19/24 pp. 128-129*). WSO has committed to conducting a post construction noise study to show site-specific characteristics. (*Hearing Transcript 2/8/24 pp. 138; 144*).

**VI. LOSS OF FARMLAND AND POTENTIAL IMPACT ON FUTURE FARMING**

The host parcel is zoned agricultural (AG) and is currently used for agriculture. (*Hearing Transcript 2/8/2024 p. 129*). The entire 47.1-acre parcel, upon which the Project Site is located, contains approximately 3.4 acres of prime farmland soil and 42.5 acres of statewide important farmland soil. The limit of disturbance of the Project Site will occupy approximately 13.50 acres. (*Department of Agriculture Letter 10/03/2023*). Prime Farmland Soils are defined by the United States Department of Agriculture National Resources Conservation Service as the most suitable

land for producing food, feed, fiber, forage, and oilseed crops (Council Administrative Notice Item No. 14). As a result of the Project, the Town will lose valuable farmland during the useful life of the solar panels. When asked if there will be an agreement to put aside an agricultural easement on other land so it can remain agriculture in perpetuity, WSO stated “there is no such agreement.” (*WSO’s response to Town Interrogatory No. 65*).

Pursuant to CGS § 16-50p(g), the Council has no authority to evaluate, amend and/or determine rights under any lease with the property owner of the proposed site, including but not limited to, the restoration of the soils to prime farmland status (CGS § 16-50p(g) (2023)). The Town requests additional assurances from WSO concerning the preservation and potential improvement of the agricultural soil on the Project Site for future farming use. WSO is open to conducting baseline environmental testing of the Project Site and environmental testing during the decommissioning to measure the impact of the removal of the solar array and associated equipment. (*Hearing Transcript 2/8/24 pp. 133, 136*).

**VII. ADEQUATE FINANCIAL SECURITY AND ACCOUNTABILITY FOR DECOMMISSIONING MUST BE REQUIRED**

There will be no surety that can be enforced by any public agency to make sure WSO decommissions the Project. WSO is providing financial assurance through its legal obligation to the landowner in the lease contract, which the Town is not a party to. (*Hearing Transcript 02/08/2024 p.132*). At the conclusion of the useful life of the Project, neither the Town nor the Council will have any authority to mandate the decommissioning of the Project under a financial assurance. WSO has failed to provide adequate financial assurance to the Town that decommissioning will take place. Should the Council approve this Petition, the Town requests an order directing WSO to post a decommissioning bond.

## VIII. CONCLUSION

If the Council were to approve the Petition it should require the following (1) the relocation of solar panels from the northern section of the project site to the eastern portion alongside the amazon distribution facility; (2) implementing appropriate screening for abutters; (3) requiring a post-construction noise study of the Project site; (4) environmental testing during decommissioning; and (5) ensuring an enforceable decommissioning plan with the appropriate decommissioning bond.

For these reasons, the Town urges the Council to require these conditions of WSO in conjunction with its approval of the Petition. The Town respectfully requests that the Council order the various mitigation measures addressed herein.

Respectfully submitted by,

THE TOWN OF WINDSOR

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**CERTIFICATION**

I hereby certify that on this day that the foregoing was delivered by electronic mail and regular mail, postage prepaid, in accordance with § 16-50j-12 of the Regulations of Connecticut State Agencies, to all parties and intervenors of record, as follows:

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